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In re Application of HAYDEN et al
U.S. Application No.: 10/009,478
Int. Application No.: PCT/CA01/00495
Int. Filing Date: 12 April 2001
Priority Date: 13 April 2000
Attorney Docket No.: 46083.011000
For: MODULATING CELL SURVIVAL BY
MODULATING HUNTINGTIN FUNCTION

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 18 January 2002.

BACKGROUND

On 12 April 2001, applicants filed international application PCT/CA01/00495, which claimed priority of an earlier Canada application filed 13 April 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 25 October 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 13 December 2001.

On 13 December 2001, applicants filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission did not include the basic national fee required by 35 U.S.C. 371.

International application PCT/CA01/00495 became abandoned as to the United States at midnight on 13 December 2001 for failure to pay the basic national fee.

On 18 January 2002, applicants filed the present petition. The petition states that it is accompanied by the basic national fee under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicants have provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicants have provided the required petition fee.

With regard to item (3), applicants have provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the appropriate late filing surcharge must be submitted.



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